UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

MICK ROCK,

Plaintiff,

Docket No. 17-cv-2618 (ALC)

- against -

ECF CASE

ENFANTS RICHES DEPRIMES, LLC, BARNEYS NEW YORK, INC. and THE REAL REAL, INC.

Defendants.

DECLARATION OF RICHARD LIEBOWITZ

I swear under the penalty of perjury that the following is true and correct to the best of my personal knowledge:

- 1. I am lead counsel for Plaintiff Mick Rock ("Plaintiff") in this action and submit this declaration in support of Plaintiff's motion pursuant to Local Civil Rule 6.3 and Rule 60(b)(1) of the Federal Rules of Civil Procedure, to reconsider the District Court's Order, dated January 19, 2020, which granted the Defendants \$100,008.13 in attorneys' fees and costs under 17 U.S.C. § 505 and sanctioned Richard Liebowitz and Liebowitz Law Firm, PLLC in the amount of \$10,000 under the Court's inherent authority. [ECF Docket ("Dkt.") # 71, Order]
- 2. Attached as Exhibit A is a true and correct copy of the application for copyright registration which was submitted to the U.S. Copyright Office on April 29, 2019, along with the Photograph of Lou Reed at issue in this case (the "Photograph").
- 3. Attached as <u>Exhibit B</u> is a true and correct copy of an e-mail, dated January 31, 2020, transmitted from the U.S. Copyright Office to my employee, Debbie Carrillo, indicating

In re Appln. of Nakayama et al. Application No. Unassigned Attorney Docket No. 403265

Replace the paragraph at page 47, lines 3-22, with:

Further, since the polyester has low compatibility with the partially aromatic polyamide, haze increases not only by the elevation of the content of the partially aromatic polyamide in the composition, the haze value increases but also by precipitation of metal antimony, clouding with excess phosphorus atom, a crystallization-accelerating effect by an alkali metal, a crystallization-accelerating effect of a resin fine powder called fine, and the like. Therefore, haze can be reduced to 20% or less by regulating the adding amount of the partially aromatic polyamide, the antimony content in the polyester composition, the content of phosphorus atom, the content of phosphorus atom, the content of alkali metal atom, and the content of fine or the like. Further, a measure of enhancing compatibility by copolymerization of the partially aromatic polyamide with an aromatic dicarboxylic acid component or the like, a measure of making the refractive index of the polyester close to that of the partially aromatic polyamide, or the like measure are also effective.

Replace the paragraph at page 51, lines 8-12, with:

Further, in the polyester composition of the invention, the increase of the cyclic ester trimer (ΔCT_1) (ΔCT_2) during melting treatment at 290°C for 30 minutes is preferably 0.40% by weight or less, more preferably 0.3% by weight or less.

Replace the paragraph beginning at page 58, line 24 with:

Furthermore, in the case that the polyester composition of the invention is a film, in order to improve handling properties such as sliding properties, winding properties, and blocking resistance, it is possible to blend inorganic particles of calcium carbonate, magnesium carbonate, barium carbonate, calcium sulfate, barium sulfate, lithium phosphate, calcium phosphate, magnesium phosphate, or the like, organic salt particles of calcium oxalate or a terephthalate salt of calcium, barium, zinc, manganese, magnesium, or the like, or inert particles such as particles of crosslinked polymers, e.g., homopolymers or copolymers of vinyl monomers such as divinylbenzene, styrene, aerylic acid, methaerylic acid, or methaerylic acid, or methaerylic acid.

Replace the paragraph beginning at page 64, line 4 with:

Furthermore, the polyester composition of the invention may be one constituting layer of a laminated molded article, a laminated film, or the like. In particular, it is used as containers and the like in the laminated form with PET. Examples of the laminated molded article include a molded article of a two-layer structure composed of two layers of an outer layer comprising the polyester composition of the invention and an inner PET layer or of a two-layer structure composed of two layers of an inner layer comprising the polyester composition of the invention and an outer PET layer, a molded article of a three-layer structure composed of an intermediate layer comprising the polyester composition of the invention and outer and innermost layers of PET or of a three-layer structure composed of outer and innermost layers comprising the polyester composition of the invention and an intermediate PET layer, a molded article of a five-layer structure composed of intermediate